THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 21326 OF 2006

Between :

Syed Samdani Basha
S/o Abdul Khadar,
Nellore.

… Petitioner

And :

The Superintendent of Police, Nellor
And others.

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 21326 OF 2006

ORAL ORDER :

The writ petition is filed alleging that the respondents are preventing the petitioner from appearing before the Court of IV Additional Judicial First Class Magistrate, Nellore, whereat he proposes to present himself seeking recall of NBWs issued in CC No. 211/05 and further alleging that they are also interfering with the petitioner's endeavor to seek a regular bail in Cr. No. 201/06. In CC No.211/05 the petitioner is being prosecuted before the IV Addl. JFCM, Nellore for offence u/Sec. 506 IPC and in Cr. No. 201/06 on the file of the III Town PS, Nellore the petitioner is arrayed as an accused for offences u/Secs. 290 and 353 IPC.

The petitioner's allegation is responded to by the 2nd respondent by way of counter affidavit. The counter affidavit states that in C.C.No. 211/05, the summons issued by the IV Addl.

JFCM, Nellore were not responded to despite service on the petitioner. Therefore the learned Magistrate had issued a NBW on 21.9.2006 directing the answering respondent to execute the warrant and posted the C.C. to 7.11.2006 for execution of the warrant. The counter affidavit specifically states that the answering respondent is making efforts to execute the warrant against the petitioner, but the petitioner is not available, but has surprisingly surfaced before the High Court by filing this writ petition. The 2nd respondent further asserts to have been informed that Cr. No.201/06 was registered against the petitioner for offences u/Sec. 290 and 353 IPC whereat ten witnesses were examined and their statements recorded. It is stated that investigation in Cr. No. 201/06 is complete and that further proceedings are pending awaiting the arrest of the petitioner, who is stated to be absconding. All the allegations of the petitioner that at the instance of rival politicians the higher police officials and municipal officers hatched a conspiracy to arrest the petitioner without enabling him to seek bail, is categorically and unequivocally denied. The allegation that false cases are foisted against the petitioner is also denied.

In the light of the categorical and unequivocal denial by the 2nd respondent that the said respondent is interfering with the petitioner's endeavors to present himself before the IV Addl. JFCM, Nellore seeking recall of NBWs issued in CC No. 211/05, as also the denial that the said respondent is prohibiting/preventing the petitioner from seeking regular bail, no further proceedings are warranted. The writ petition is dismissed. The petitioner is at liberty to approach the IV Addl. JFCM, Nellore for recall of the NBWs issued and is at liberty to seek regular bail. No order as to costs.

Dt: 18.10.2006 ----------

Pvsn Justice G.Raghuram